

REMARKS

This Amendment is responsive to the office action dated July 21, 2009.

The claims were objected to and rejected under Section 112, first paragraph. Independent claims 3, 17 and 22 have been amended to overcome the Examiner's objection. For the reasons discussed below, Applicant respectfully traverses the Examiner's Section 112, first paragraph rejection.

Claims 3, 17 and 22 have been amended. Claims 38-40 have been added. No new matter has been inserted. Claims 3-9, 11-17, 19-28, 30 and 38-40 remain pending in the application. Applicant respectfully requests reconsideration of the Examiner's rejections.

With respect to the independent claims, Applicant incorporates all of its April 3, 2009, remarks/arguments as to why the addition of the timer unit and timer functions to the claims, without any other additions, was sufficient to place the claims in condition for allowance.

With respect to claims 38-40, Applicant incorporates by reference all of its arguments made in its October 6, 2009 filing as to why there is no new matter in the claims, which are also reproduced below since the Amendment was not entered by the Examiner..

The current dependent claims substitute "outside input" with "live human assistance being required to be present with the user". As previously argued, it was shown that the original disclosure clearly disclosed that the messages were automatically generated without any outside input, which equally applies to "live human assistance being required to be present with the user".

1. Arguments made from October 6th Amendment

The pending claims have been rejected solely on the basis of Section 112, first paragraph, based on the Examiner's belief that the limitation "wherein said messages begin being automatically generated by the microcontroller unit on its own and without any outside input and prior to any use of said medical apparatus by the user for the current session."

So as to leave no doubt that the specification provides support that the "messages begin being automatically generated by the microcontroller unit on its own and without any outside input and prior to any use of said medical apparatus by the user for the current session", Applicant will first begin by stating the common and well recognized of what a microcontroller is. A microcontroller is defined as a highly integrated chip that contains all of the components comprising a controller. This includes a CPU, RAM and flash memory, I/O ports and timers. A microcontroller is designed for a very specific task to control a particular system.

With this said, looking at the application that has been subjected to over 4 years of examination, the description of the present invention discusses in numerous places how the parts (CPU, interval timer, etc.) of the microcontroller act together based on instructions received from the stored functional program, which causes the microcontroller to "act on it's own to generate the messages without any outside input, as it only utilizes the commands defined by the functional program to produce the necessary messages in connection with the function of the medical device.

Applicant has fully described in the specification the function of the present invention is for the apparatus to turn on by "itself", "own it's own," without outside help and to provide a way to eliminate ancillary medical assistance, through technology, which giving guidance, through simulated word, words, phrase, phrases, and promptings as fully described in the specification. This, without more, would indicate to one having ordinary skill in the art that the messages are automatically generated by the microcontroller unit without any outside input. On page 3, it is specifically stated that the "medical apparatus will do the same function that a human assistance would do." It is clear that the microcontroller provides the operation of the function of the present invention. The microcontroller, through the synthesis of its various components, such as, but not limited to, its CPU, timer interval, functional program, are responsible for generating the prompting messages without outside input. As seen on Page 11, line 30, these components of the Microcontroller permit the Microcontroller to generate the verbal audible messages by itself and without outside input.

Furthermore, on pages 12 through 15 of the Substitute Specification, Applicant goes through a highly detailed analysis of how the components of the microcontroller operate together in synthesis, based on the instructions from "functional program" to generate all verbal messages by the microcontroller itself. As a specific example, towards the bottom of page 14 it is detailed that:

"When the Central Processor Unit 103 determines that an audible response is needed and which audible response is to be generated as determined by the definition of the behavior of the Apparatus 10 and the definition of the "functional program", it is directed by the instructions within the "functional program" to calculate an index called the "audio address" that is used to retrieve the audible response data called "audio data" from the Audio Storage Unit 6. The Central Processor Unit 103 presents the "audio address" to the Audio Storage Unit 6 through a set of digital electrical signals 205a. The Audio Storage Unit 6 responds by relaying the "audio data" associated with the "audio address" to the Central Processor Unit 103 through a set of digital electrical signals 205.

The Central Processor Unit 103 retrieves time interval information from Timer Unit 105 to determine the appropriate time when retrieved "audio data" can be relayed to the Signal Output Unit 104. In this way, the "audio data" is successively relayed to the Signal Output Unit at a rate appropriate for the regeneration of the audible response from the "audio data". The Central Processor Unit 103 relays the "audio data" to the Signal Output Unit 104 through a set of digital electrical signals 303." (Please note these components work in synthesis within the microcontroller as one of many components as stated below in numbered paragraph #1)

The above disclosure can only be reasonably interpreted to mean/disclose that the microcontroller, utilizing its CPU component, in synthesis with other microcontroller unit components, generates the verbal messages on its own. Thus, the above disclosure alone provides supports for the claim language that the microcontroller generates the verbal audible messages by itself.

In addition to the above,

1. Page 11, lines 27-30, Describes Fig. 2 and states that the Signal Output Unit 100 is a subunit of the Microcontroller Unit 7. Further identifies that the Microcontroller Unit contains subunits Signal Input Unit 100, Program Storage Unit 101, Data Storage Unit 102, Central Processor Unit 103, Signal Output Unit 104 and Timer Unit 105. (As discussed these disclosed components of the Microcontroller permit the Microcontroller to generate the verbal audible messages by itself and without outside input.)
2. Page 13, lines 16-19, specifically states that "The Central Processor Unit 103 executes a sequence of instructions that are retrieved from the Program Storage Unit 10. This sequence of instructions is called the "functional program" and defines the series of steps and decisions that are made to constitute the function of the present invention. (Automatically generating verbal prompting messages are a function of the present invention).
3. Page 12, line 29, specifically states: "...the Signal Input Unit 100 within Microcontroller.
4. These additional identified sentences alone provide further support for the claim limitation and show that the components of the microcontroller determines when to generate audible messages by itself and that no outside assistance is used when generating audible messages. With the above understanding that the Central Processor is one of the components that make up the Microcontroller we have further evidence and support when reading the Specification, which at Page 7, lines 10-12 states that "The functional Program will at a predetermined time engage the operation of each device in order to guarantee each operation has been performed by the patient as well as, turn on and turn off and on the medical apparatus. With this said, the

description and function stipulate that no outside input is provided and control is provided from the “microcontroller itself on its own”.

So as to fully address the rejection, Applicant will point to many additional instances in the Specification (using the page and line numbers of the filed Substitute Specification) where support can be found for the claim limitation that is subjected to the Section 112 rejection. The below further examples in the specification are not considered exhaustive.

5. Page 16, lines 1-5: “functional program stored within microcontroller and Central Processor Unit 103 of microcontroller executes the instructions in the functional program and to perform the actions”
6. Page 9, lines 6-9: “programmable timer for letting the person know to begin use” (timer is within microcontroller)
7. Page 9, lines 21-31: “present invention provides audible, verbal, simulated humanlike voices phrases and reminders that will continue to prompt the patient, giving audible, verbal encouragement, until the patient uses the apparatus again”; “present invention can be set to provide audible, verbal, simulated humanlike voice phrases, to inform the patient of the exact times and intervals in which the patient should use their particular apparatus” (fully described in Specification that these functions are provided by the microcontroller within apparatus)
8. Page 6, starting at lines 13-25: “patient preferably has no control or adjustment capabilities over the present invention”; “patient merely follows the direction being

- provided by the present invention" (fully described in Specification how microcontroller performs all control capabilities within the present invention)
9. Page 10, lines 2-6: "present invention continually reminds the patient until the performed requirements required by that apparatus being used are met." (fully described in the Specification that the microcontroller within the present invention is responsible for generating the continually reminder messages)
 10. Page 7, lines 5-18: "functional program supplies the appropriate function for each particular apparatus employing the present invention"; "functional program at a predetermined time engages the operation of each device in order to guarantee each operation been performed by the patient as well as, turn off and on the medical apparatus at said predetermined times to allow proper fulfillment of said therapy"; "functional program extends the period mode for the intervals in order to allow a sleep period when the apparatus is not being used" (the functional program is stored within the microcontroller as one of the components that make up the microcontroller)
 11. Page 15, lines 6-11: "Signal Output Unit 104 receives "audio data" from the Central Processor Unit 103 at a rate that is indicated by the time interval"; "time interval is calculated by the Timer Unit 105 as it is commanded to do by the Central Processor Unit 103 when it executes the instructions in the "functional program" that controls setting up of the Timer Unit 105; "time interval is made to be the value required in order to regenerate the audible response correctly"(the Signal Output Unit, CPU and Timer Unit are some of the components specified that makeup the microcontroller)
 12. Page 10, lines 20-31: "the present invention eliminates the need for supervised attention by ancillary medical assistance, replacing those present positions and

responsibilities, by giving incentive to the patient, or gauging the patient's performance through the function of the present invention" (the gauging is performed by the microcontroller)

Lastly, on page 17, starting on line 8, it is stated that:

"I. a new method to provide assistance for utilizing medical apparatus in which the ancillary medical assistance does not have to directly be present to guide, prompt, or give measurements to the patient or medical personnel, as the invention shall, through electronic technology provide the necessary guidance to the patient as well as give audible information to medical personnel if needed and shall eliminate the need for ancillary medical assistance; (Electronic technology is referring to the microcontroller) (Emphasis Added)

With so many references addressing the components within the microcontroller working on its own to generate and deliver audible messages to the patient, as well as the underlying theme of the invention described throughout the disclosure being that the device conducts the prompting by itself, and eliminates the need for live medical assistance, Applicant respectfully submits, that one having ordinary skill in the art would readily determine and be aware that the microcontroller generates the audible messages on its own and without any outside assistance.

In view of the above, Applicant respectfully traverses the Examiner's rejection and again respectfully notes that basically the entire disclosure of the instant invention is directed to eliminating medical assistance by providing an electronic assembly having a microcontroller unit that is programmed to automatically generate messages on its own, furthermore exemplifying that this function is described in detail throughout the specification. This function is also described as occurring without any outside input and prior to any use of the medical apparatus by the user for the current session. Reiterating, Applicant respectfully finds it doubtful that one skilled in the relevant art who reads Applicant's disclosure would not understand that Applicant's electronic assembly, through the components of the programmed microcontroller unit, automatically generates messages on its own.

It is also respectfully noted, that with all prior responses, Applicant has followed and adopted all of the Examiner's suggestions. With the above showing, Applicant respectfully requests that the Section 112 rejection be withdrawn. It is clear that there are numerous instances in the Specification where it is discussed that the microcontroller automatically generates the verbal messages without any outside assistance. Thus, it is shown above, that no outside input is required or needed, as the microcontroller automatically generates, on its own, the function of the present invention. The above Remarks show many instances of support and disclosure in the specification for the claimed limitation.

The amendments do not raise any new issues nor do they require a new search and therefore, Applicant respectfully requests that this Amendment after Final be entered by the Examiner. In view of the above, Applicant respectfully requests that the Examiner withdraw the objection and Section 112, first paragraph rejection.

2. Additional Supplemental Arguments

So as to leave no doubt that the specification provides support that the "messages begin being generated by the microcontroller unit without any live human assistance being required to be present with the user and for initial prompting or alert messages prior to any use of said medical apparatus by the user for the current session", Applicant will again first begin by stating the common and well recognized of what a microcontroller is. A microcontroller is defined as a highly integrated chip that contains all of the components comprising a controller. This includes a CPU, RAM and flash memory, I/O ports and timers. A microcontroller is designed for a very specific task to control a particular system.

With this said, looking at the application the description of the present invention discusses in numerous places how the parts (CPU, interval timer, etc.) of the microcontroller act together based on instructions received from the stored functional program, which causes the microcontroller to "act on it's own to generate the messages without any live human assistance

having to be present, as it only utilizes the commands defined by the functional program to produce the necessary messages in connection with the function of the medical device.

Applicant has fully described in the specification the function of the present invention is for the apparatus to turn on by itself, without any live human assistance being required to be present, as a way to eliminate ancillary medical assistance, through technology. This, without more, would indicate to one having ordinary skill in the art that the messages are automatically generated by the microcontroller unit without any live human assistance being required to be present. On page 3, it is specifically stated that the "medical apparatus will do the same function that a human assistance would do." It is clear that the microcontroller provides the operation of the function of the present invention. The microcontroller, through the synthesis of its various components, such as, but not limited to, its CPU, timer interval, functional program, are responsible for generating the prompting messages without outside input. As seen on Page 11, line 30, these components of the Microcontroller permit the Microcontroller to generate the verbal audible messages by itself and without any live human assistance being required to be present with the user. See also:

1. Page 10, lines 20-31: "the present invention eliminates the need for supervised attention by ancillary medical assistance, replacing those present positions and responsibilities, by giving incentive to the patient, or gauging the patient's performance through the function of the present invention" (the gauging is performed by the microcontroller)
2. Page 17, starting on line 8, it is stated that:

"I, a new method to provide assistance for utilizing medical apparatus in which the ancillary medical assistance does not have to directly be present to guide, prompt, or give measurements to the patient or medical personnel, as the invention shall, through electronic technology provide the necessary guidance to the patient as well as give audible information to medical personnel if needed and shall eliminate the need for ancillary medical assistance; (Electronic technology is referring to the microcontroller) (Emphasis Added)

With so many references addressing the components within the microcontroller working on its own to generate and deliver audible messages to the patient, as well as the underlying theme of the invention described throughout the disclosure being that the device conducts the prompting by itself, and eliminates the need for live medical assistance, Applicant respectfully submits, that one having ordinary skill in the art would readily determine and be aware that the microcontroller generates the audible messages on its own and without any live human assistance.

In view of the above, Applicant respectfully traverses the Examiner's rejection and again respectfully notes that basically the entire disclosure of the instant invention is directed to eliminating medical assistance by providing an electronic assembly having a microcontroller unit that is programmed to automatically generate messages. Applicant respectfully finds it doubtful that one skilled in the relevant art who reads Applicant's disclosure would not understand that Applicant's electronic assembly, through the components of the programmed microcontroller unit, automatically generates messages on its own.

It is also respectfully noted, that with all prior responses, Applicant has followed and adopted all of the Examiner's suggestions. With the above showing, Applicant respectfully requests that all rejections be withdrawn. It is clear that there are numerous instances in the Specification where it is discussed that the microcontroller automatically generates the verbal messages without any live human assistance. Thus, it is shown above, that no live human assistance is required or needed, as the microcontroller generates the messages. The above Remarks show support and disclosure in the specification for the claimed limitation.

In view of the above, Applicant respectfully requests that the Examiner withdraw the objection and Section 112, first paragraph rejection.

Favorable action passing Applicant's application to allowance is respectfully requested. If there are any additional charges, including extension of time, please bill our Deposit Account No. 503180.

Applicant: Terry Keith Bryant
Serial No. 10/767,396
Page 25 of 25

Respectfully submitted,

/Daniel S. Polley/
Daniel S. Polley, Reg. No. 34,902

DANIEL S. POLLEY, P.A.

CUSTOMER NO. 44538

L:\1000\1023 Bryant\Patent Amendments\8009\Amend 11-23-09\doc